

**TOWN OF LAUDERDALE-BY-THE-SEA  
TOWN COMMISSION  
REGULAR MEETING MINUTES  
Jarvis Hall  
4505 Ocean Drive  
Tuesday, May 24, 2016  
7:00 PM**

**1. CALL TO ORDER, MAYOR SCOT SASSER**

Mayor Scot Sasser called the meeting to order at 7:05 p.m. Also present were Vice Mayor Mark Brown, Commissioner Alfred "Buz" Oldaker, Commissioner Elliot Sokolow, Commissioner Chris Vincent, Town Manager Bud Bentley, Assistant Town Manager Tony Bryan, Development Services Director Linda Connors, Planning Technician Juliana Cardona, Senior Office Specialist Jhanelle Campbell, Building Official Jack Morrell, Town Attorney Susan L. Trevarthen, Municipal Services Director Don Prince, Special Projects Coordinator Debbie Hime, Public Information Officer Steve d'Oliveira, and Town Clerk Tedra Smith.

**2. PLEDGE OF ALLEGIANCE TO THE FLAG**

**3. INVOCATION**

Pastor James Corgie gave the Invocation.

**4. ADDITIONS, DELETIONS, DEFERRALS OF AGENDA ITEMS**

Town Manager Bud Bentley requested that Item 13d be the first Item heard under New Business.

**5. PRESENTATIONS**

**a. LBTSevents.com Website Update (Debbie Hime, Special Projects Coordinator)**

Special Events Coordinator Debbie Hime provided a brief presentation on the new LBTSevents.com website. The former "Things to Do" page on the Town's official website is now shown as "Getting Around," and features walking and bicycling maps, as well as bus schedules for Broward County Transit (BCT), the Pelican Hopper, and the Sun Trolley. The site also includes all hotels within the Town with a map and links to the hotels' pages.

The special events page shows upcoming events, including the Town's 4<sup>th</sup> of July celebration and BugFest 2016, among others. The new page is more user-friendly and provides brief descriptions of Town events, as well as maps.

**b. Live Beach and Anglin's Square Webcams Presentation (Steve d'Oliveira, Public Information Officer)**

Public Information Officer Steve d'Oliveira showed a brief presentation on the Town's two webcams, which are located at the Pavilion one facing Anglin Square and the other facing the beach and pier. These cameras went live on the LBTSevents.com web page on May 13, 2016. Public Information Officer d'Oliveira advised that he would keep the Commissioners apprised of how often maintenance is required for the cameras.

**c. Anglin Pier Clean-Up (Steve d'Oliveira, Public Information Officer)**

Public Information Officer d'Oliveira continued that the Town's Strategic Plan includes efforts to educate the public about coral reefs and the marine life on the Town's shore. With this in mind, a pier clean-up project was held in April 2016. These events are held three to four times per year. The recent clean-up resulted in the collection of roughly 400 lbs. of trash.

**d. BugFest 2016 (Steve d'Oliveira, Public Information Officer)**

BugFest, which began in Lauderdale-By-The-Sea in 2012 and was so named because divers refer to lobsters as "bugs." There are currently 16 events scheduled over 10 days, including the Great Florida Bug Hunt, photo contests, a cooking competition, and diving classes. The Divers' Alert Network (DAN) will hold a seminar on diving safety during the event. Approximately 20 Town businesses participate in BugFest. The festival begins on Friday, July 22, 2016 with a reception for an eco-artist and ends on Sunday, July 31. \$20,000 in awards will be given out during the festival.

**6. PUBLIC COMMENTS**

At this time Mayor Sasser opened public comment.

Jerry Sehl, resident, addressed the Town's efforts to develop a marina Ordinance, asking why the purchase of the property by the Town has not been pursued. He characterized the marina's current condition as an eyesore.

With no other individuals wishing to speak at this time, Mayor Sasser closed public comment.

**7. PUBLIC SAFETY DISCUSSION**

**a. VFD April 2016 Report (Chief Judson Hopping)**

Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.

**8. TOWN MANAGER REPORT**

**a. April Finance Report (Tony Bryan, Assistant Town Manager)**

The Commissioners accepted the report without discussion.

**b. Town Manager Report (Bud Bentley, Town Manager)**

Town Manager Bentley advised that a new Finance Director has been selected and will begin working with the Town on June 13, 2016. He added that the Town Manager Report now includes a section for the status of various Town projects.

The Commissioners accepted the report without discussion.

**9. TOWN ATTORNEY REPORT**

None.

**10. APPROVAL OF MINUTES**

**a. May 10, 2016 Town Commission Meeting Minutes (Tedra Smith, Town Clerk)**

Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.

**11. CONSENT AGENDA**

- a. Town Commission Consent to the Transfer of the Town's Parking Services Agreement from Republic Parking System, Inc. to Imperial Parking Corporation, Inc. (Tony Bryan, Assistant Town Manager)**
- b. Special Event Application for International Coastal Clean-Up September 7, 2016 (Debbie Hime, Special Projects Coordinator)**
- c. Neighborhood Grant (Don Prince, Municipal Services Director)**
- d. 4<sup>th</sup> of July Special Event Application (Chief Judson Hopping)**

Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve Items a, b, c, and d. Motion carried 5-0.

**12. OLD BUSINESS - None**

None.

### **13. NEW BUSINESS**

#### **d. FAU Civic Center Visioning Project – Contract with Florida Atlantic University (Mayor Scot Sasser)**

Town Manager Bentley explained that when planning for the Commercial Boulevard project, the Town used a University of Miami charrette format, which they found to be very successful in engaging the public. Staff hopes to use a similar process in evaluating the Florida Atlantic University (FAU) Civic Center project.

Francis Lynn, Associate Professor with the FAU School of Architecture and Director of MetroLAB Collaborative, stated that the intent of MetroLAB is to engage the public in a way that advances scholarship and improves the well-being of the community. They hope to work with Lauderdale-By-The-Sea on a graduate-level design studio project that has two parts:

- A neighborhood/urban design framework to determine the highest and best uses of property and adjacent land; and
- A more pedestrian-friendly environment with adjacent mixed-use development.

Design strategies for the Civic Center will look at site design, the public function and character of the building, opportunities for the incorporation of mixed-use development, current and future parking needs, and the Midcentury Modern architectural design. Students will produce drawings and models that allow the Town to consider a variety of designs and models. Mr. Lynn emphasized the importance of community stakeholders working with students on the Civic Center project.

The Commissioners discussed the presentation, with Vice Mayor Brown expressing concern with the project's timing, as the design stage of the El Mar Greenway will be underway at the same time. This could result in two projects disrupting major roadways through the Town at the same time. He recommended making the El Mar Greenway the priority.

Vice Mayor Brown also noted that if the infrastructure tax proposed for Broward County referendum passes, its funds could be used toward the Civic Center project for bonding the project and could make a difference in the design. He concluded that the Broward Metropolitan Planning Organization (MPO) is willing to help the Town pay for an intermodal transportation facility within the Town, which could include the Town Hall complex.

Mayor Sasser advised that he wished to ensure any subsequent Commissions would recognize the Civic Center project as an ongoing effort begun by the current Commission. He confirmed that the El Mar Greenway was the priority in the nearer term.



**Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve the project with funding not to exceed \$20,000. Motion carried 5-0.**

It was noted that the motion authorized the appropriate Town official(s) to complete negotiations of the scope of services of the project and execute an agreement.

**a. Site Plan Amendment for 4660 El Mar / Ocean Drive – Landscape Issues and El Mar Drive Streetscape (Linda Connors, Development Services Director)**

Development Services Director Linda Connors advised that construction is proceeding on this project. The Site Plan amendment is related to the parking lot. It reorganizes the traffic flow, removes backout parking on A1A and El Mar Drive, and increases the amount of landscaping on the site. This is the final step necessary to complete construction on the site before the hotel opens in autumn 2016.

Two issues on the site require the Commission's direction. The El Mar Drive streetscape plan requires a specific build-out if improvements to a property affect more than 25% of that property's value. Another issue is the upcoming El Mar Greenway. In lieu of having the Florida Development Group pay for sidewalk and streetscape improvements, Staff recommends having them evaluate the cost of their proposed improvements and place these funds in an escrow account for use on greenway improvements not covered by the Florida Department of Transportation (FDOT).

Another issue is the Code requirement that view corridors prohibit landscaping from 4 ft. to 12 ft. from the horizontal grade. When properties improve their sites, they are asked to bring their landscaping up to Code. Development Services Director Connors noted that two oak trees found in the Town's Pine Avenue portal encroach upon the Florida Development Group's property. Staff requests that the Commission authorize the Town Manager to enter into an agreement for the maintenance of these trees, and for Staff to issue a variance to protect them.

Development Services Director Connors advised that when the Code was drafted, there was no language referring to the Town's portals at that time. The Code may be changed to acknowledge the portals, or a variance may be issued to preserve the trees.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to adopt Staff's recommendation for a variance.**

Town Attorney Trevarthen advised that there are multiple recommendations by Staff:

1. Initiate a variance to protect the Town's trees located in the view corridor of the Pine Avenue portal;
2. Authorize the Town Manager to enter into an agreement in which the Town will be able to maintain the trees located on the Florida Development Group's property at the Pine Avenue portal;

3. Authorize the Town Manager to approve a payment equivalent to the modified El Mar streetscape design (narrowing to one lane to transition to Pine Avenue), which will be placed in a fund that will be used to enhance the A1A Greenway project.

Commissioner Sokolow confirmed that his motion would approve all three Staff recommendations.

**Motion carried 5-0.**

**b. Application for Relief of Code Enforcement Lien at 2048 Sailfish Place  
(Linda Connors, Development Services Director)**

Development Services Director Connors explained that 2048 Sailfish Place has been a vacation rental property since 2014. It has been cited four times for vacation rental Code violations. A violation was issued in May 2015 for work without a permit, including the demolition of a kitchen and two bathrooms. In August 2015, a fine of \$100/day was issued by the Special Magistrate. The property came into compliance on October 27, 2015 after being noncompliant for 65 days.

Development Services Director Connors noted that the property changed vacation rental agents on November 18, 2015. Violations for the property occurred under the previous agent. The Applicant requests a mitigation payment of \$1000, which is just over 15% of the requirement. The property came into compliance 158 days after the violation was cited. There are no current violations on the property. Staff recommends that the Commission determine the appropriate mitigation amount after hearing from the Applicant's representative.

At this time Mayor Sasser opened public comment.

Anthony DeBolt, representing the Applicant, stated that plans were submitted for renovation of the property's kitchen 10 days after the violation was issued. During renovation of the kitchen, it was determined that work must also be done on the bathroom. Mr. DeBolt felt the direction issued by the Special Magistrate had been confusing, and asserted that he did not receive notice of the issuance of the fine.

With no other individuals wishing to speak on this Item, Mayor Sasser closed public comment.

The Commissioners discussed the request, with Vice Mayor Brown pointing out that the property has a history of being one of the Town's most abusive vacation rental properties, although there was no reference to this history as part of the mitigation. Town Attorney Susan Trevarthen clarified that the Commission is tasked with considering all relevant factors when making a decision, including any prior violations on the property.

Commissioner Oldaker commented that the contractor could have taken steps to ensure all permits were pulled for the project before construction began. Commissioner Vincent agreed, emphasizing the need for the contractor to communicate with the Town's Building Department. Commissioner Sokolow noted that the contractor paid a double permitting fee, which was not related to the fine issued for late completion of the work. He recommended mitigation of the fine to \$1500, to be paid within 30 days. It was clarified that a \$150 administrative fee must also be paid.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to approve a mitigation amount of \$1500, plus a \$150 administrative fee, to be paid within 30 days. Motion carried 4-1 (Vice Mayor Brown dissenting).**

**c. Budget Timetable (Tony Bryan, Assistant Town Manager)**

Assistant Town Manager Tony Bryan stated that the recommended budget timetable is very similar to the timetables submitted in recent years. The first budget hearing would be scheduled for Monday, September 12, 2016 at 6 p.m. and the second on Monday, September 26, 2016 at 6 p.m.

**Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.**

**e. Licensing Valet Providers (Tony Bryan, Assistant Town Manager)**

Assistant Town Manager Bryan recalled that at a previous meeting, there had been discussion of a valet service using public parking spaces. Staff is now seeking guidance from the Commission regarding the best way to regulate use of these spaces. He has contacted all valet operators in the Town to inform them that this Item was being presented.

Mayor Sasser clarified that he would like to give the Town the ability to regulate where valet services may park: for example, he felt they should not use the plazas' parking spaces. He explained that he would like the Commission to discuss this issue further.

Town Attorney Trevarthen noted that some valet operations occur on public property, which would provide a mechanism for regulation. It is currently legal for a valet to use public parking spaces as long as they pay the meter appropriately.

The Commissioners agreed by consensus to have Staff bring back a mechanism to regulate valet operators' use of public parking spaces.

**f. Broward League of Cities (Tedra Smith, Town Clerk)**

Town Clerk Tedra Smith stated that the Town last hosted a meeting of the Broward League of Cities in 2014. At present, there are two meeting dates available if the Town

wishes to host a meeting: December 1, 2016 and January 5, 2017. She requested input from the Commissioners.

Vice Mayor Brown added that the Commission will need to set aside a number of Town Hall parking spaces for attendees when the meeting is hosted.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to host a Broward League of Cities meeting on either December 1, 2016 or January 5, 2017. Motion carried 5-0.**

#### **14. COMMISSIONER COMMENTS**

Commissioner Oldaker reported that he was sworn in at the recent Hillsboro Inlet community meeting. He also advised that flags are being put up throughout the Town in advance of the 4<sup>th</sup> of July holiday, and encouraged businesses and residents to participate in the parade or contribute to events.

Vice Mayor Brown stated that he recently represented the Broward MPO at a transportation training conference in Tampa.

The Commission took a brief recess at this time.

#### **15. ORDINANCES**

##### **Ordinances 1<sup>st</sup> Reading**

None.

##### **Ordinances 2<sup>nd</sup> Reading**

- i. **Ordinance 2015-17 – AN ORDINANCE OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING CHAPTER 5, “BEACHES AND WATERWAYS,” BY AMENDING SECTION 5-1, “DEFINITIONS,” TO CLARIFY THE DEFINITION OF WATERCRAFT; AMENDING CHAPTER 30, UNIFIED LAND DEVELOPMENT REGULATIONS, OF THE CODE OF ORDINANCES, BY AMENDING SECTION 30-11, “DEFINITIONS,” TO PROVIDE DEFINITIONS RELATED TO MARINA USES; BY AMENDING DIVISION 2, “DISTRICTS,” OF ARTICLE V, “ZONING,” TO RENAME SUBDIVISION G, “BUSINESS ZONING DISTRICT REGULATIONS” TO “B-1-A DISTRICT REGULATIONS,” TO DELETE SECTION 30-260 TO ELIMINATE DUPLICATION, TO AMEND SECTION 30-261, “B-1-A DISTRICT – BUSINESS” TO REORGANIZE REQUIREMENTS FOR CONDITIONAL USES, AND TO AMEND SECTION 30-271, “B-1 DISTRICT – BUSINESS” TO CORRECT REFERENCES AND PROVIDE FOR PERMITTED USE OF MARINAS, IDENTIFY SPECIFIC REQUIREMENTS**

**FOR MARINA USES, AND REORGANIZE REQUIREMENTS FOR CONDITIONAL USES; BY AMENDING SECTION 30-311, "BOATS, BOAT LIFTS, BOATHOUSES AND ANCHORAGE" TO AMEND AND CLARIFY THE REQUIREMENTS FOR DOCKING AND MOORING OF WATERCRAFT AND PROVIDE A PROCESS AND REQUIREMENTS FOR THE DESIGNATION OF MARINA MOORING AREAS; BY AMENDING SECTION 30-318, "MINIMUM PARKING REQUIREMENTS," TO MODIFY PARKING REQUIREMENTS FOR MARINAS IN A YACHT BASIN; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

At this time Mayor Sasser opened public comment.

Jenni Morejon, representing the marina, explained that she was originally engaged to assist the facility through the Ordinance process. She noted that the Ordinance brought back at tonight's meeting is for conditional use approval, although the marina does not feel this is necessary, as it has been in existence for some time and many improvements have been made to bring the property into compliance. She concluded that the owners are happy to move forward with the process.

Town Manager Bentley advised that after the last meeting, the Ordinance has been modified so any marina applying for conditional use must be certified as a Florida Clean Marina. This would address several environmental issues and ensure that the marina follows best practices. Staff recommends that the Ordinance be approved including six items listed in the backup materials.

**Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve the Ordinance as is and as explained by the Town Manager, with the conditional use and the following items to be discussed when it comes back for Site Plan approval.**

- **Restores the requirement for conditional use approval for marinas (lines 73, 80, 405, 437-489, 621, 631-635);**
- **Adds a definition of Recorded Property Line to clarify that submerged land or waterways are not included in the definition (line 113-116);**
- **Adds "or dock" to line (line 124) approved by the Commission;**
- **Clarifies the Town's requirements for reflective marking on boat lifts (line 569) and piles (lines 575, 582);**
- **Adds the requirements for a marina agent and related responsibilities that were in earlier versions of the ordinance and were inadvertently omitted from the most recent drafts (lines 456, 477-486); and**
- **Requires a marina to become a State of Florida Clean Marina and maintain that certification as a condition of keeping their Conditional Use Permit (lines 458-467, 487-489)**

**Motion carried 5-0.**



## **16. RESOLUTIONS – PUBLIC COMMENTS**

- a. Resolution 2016-19 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, AMENDING THE 2015 / 2016 FISCAL YEAR BUDGET IN ACCORDANCE WITH THE ATTACHED EXHIBIT “A”; AUTHORIZING APPROPRIATIONS AND EXPENDITURES IN ACCORDANCE WITH THE 2015 / 2016 FISCAL YEAR BUDGET AS AMENDED; PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY, AND AN EFFECTIVE DATE (Tony Bryan, Assistant Town Manager)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Assistant Town Manager Bryan stated that the Resolution formalizes budget amendments related to expenditures approved at previous meetings: specifically, expenditures for the South Ocean parking lot and El Mar Plaza.

**Commissioner Sokolow made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.**

- b. Resolution 2016-20 – A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, UPDATING THE DEVELOPMENT REVIEW FEE SCHEDULE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE (Linda Connors, Development Services Director)**

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

Development Services Director Connors recalled that at the previous meeting, the Commission directed Staff to modify the fees associated with vacation rental properties to more accurately reflect the Staff time involved in processing and regulating these properties. The amended fee schedule provides for a \$750 vacation rental registration fee and a \$500 renewal fee.

In reviewing the Town's fees, Staff noted that a right-of-way encroachment fee was missing from the fee schedule. The Resolution also adds a \$150 fee for this encroachment.

**Commissioner Vincent made a motion, seconded by Commissioner Oldaker, to approve. Motion carried 5-0.**

## **17. QUASI JUDICIAL PUBLIC HEARINGS**

Town Attorney Trevarthen explained the procedures for the hearing of quasi-judicial items, and the Commissioners disclosed any ex parte communications on these items. Any individuals wishing to speak were sworn in at this time.

**a. Administrative Adjustment Application for 2001 South Ocean Boulevard Requesting Relief from the Broward County (Annexed Area) Code to Allow a North Side Setback of 19 feet 7.92 inches Where 20 feet is Required (Linda Connors, Development Services Director)**

Development Services Director Connors stated that the subject property, Assumption Catholic Church, constructed a new rectory with Site Plan approval and a building permit. Upon inspection, it was determined that the building intrudes approximately 4 in. into the setback, requiring an administrative adjustment before a Certificate of Occupancy may be issued. The Board of Adjustment voted unanimously in approval of the request.

At this time Mayor Sasser opened public comment, which he closed upon receiving no input.

**Commissioner Vincent made a motion, seconded by Commissioner Sokolow, to approve. Motion carried 5-0.**

**b. Variance Request Application for 1856 West Terra Mar Drive: Requesting Relief from the Broward County (Annexed Area) Code to Allow a Street Side Pool Setback of 7 feet 1.08 inches to the Water's Edge Where 18 feet is Required and a Street Side Setback of 3 feet 9.5 inches to the Deck Where 15 feet is Required (Linda Connors, Development Services Director)**

Development Services Director Connors advised that the subject property is a corner lot. The request for a variance from Broward County zoning regulations would allow a pool to be constructed at 7 ft. 1 in. against a requirement of 18 ft. and a deck at 3 ft. 9.6 in. against a requirement of 15 ft. The requirements are relatively large because the pool is located on the street side of the lot.

In order to receive a variance, the Application must meet certain conditions of Town Code:

1. Special conditions and circumstances affect the land, structure, or building involved: because the property is a corner lot and has an angled property line, which limits the property's ability to meet setback requirements;
2. Circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute an exception: if the property was not located on a corner lot, the street side setback would be significantly smaller than 18 ft.; only five other properties in the Town have similar circumstances;
3. Literal interpretation of the provisions would result in a hardship for the owner;



4. The hardship is not self-created or show disregard for or ignorance of the regulations: a permit was issued by the Building Department with an error in the setback, and the property was built based on this permit;
5. The variance is the minimum variance for use of the property and will be in harmony with the general purposes and intent of applicable regulations and will not be injurious to the neighborhood or detrimental to the public realm;
6. The request would be generally permitted within the district;
7. Granting the variance is based on financial hardship: this is not considered as part of the request.

Staff received four emails and three verbal recommendations from other property owners in support of the request, and two emails and three verbal recommendations from property owners opposed to the request. The Board of Adjustment voted 4-1 in favor of the Application.

Development Services Director Connors noted that the property owner was reimbursed \$1538 to address the original error. She further clarified that of the five houses in Town experiencing similar setback issues, only one has received a variance. Town Attorney Trevarthen advised that these homes are located in areas that belonged to the County before annexation by the Town, and there is evidence that they were permitted.

Development Services Director Connors also clarified that under Broward County Code, almost none of the pool structures would be allowed; however, if it were viewed under Town Code, it would be permitted. In the past, an Ordinance was written to accommodate similar lots in the historic section of Town to relax setbacks and allow front yard pools. The lot's side yard fence is legal under Code.

Commissioner Vincent requested confirmation that once a uniform Code is applied throughout the Town, the four similar properties that have not received variances would be grandfathered as legal nonconforming uses. He explained that he did not wish to further burden these properties in the future. Town Attorney Trevarthen advised that if Code changes after a structure is built, it is considered nonconforming if legally constructed. She added, however, that Code for the northern section of Town is unlikely to be a mirror image of Code in the southern section.

Development Services Director Connors explained that the Broward County Code requires a 5 ft. setback from the property line and a 3 ft. setback from the water's edge, unless the property is streetside. When plans for the property were originally reviewed, the streetside location and 3 ft. setback were missed. The error was discovered when the property was inspected. After the pool was relocated, a spot survey revealed that it was a 7 ft. and not 18 ft. setback.

Benjamin Bachar, **Applicant**, stated that he felt Staff's presentation was a factual one. He continued that he followed all the instructions provided to him by the Building Department,

and added that he has filled the pool with water after seven months because he was under the impression that this was permitted.

At this time Mayor Sasser opened public comment.

James Lowe, resident, stated that he lives next door to the subject property. He did not feel the Application met the criteria for special conditions, as Ordinance 2009-355 prevents the installation of pools on the side in corner lots. He added that the Applicant continued to build the pool after failing a setback inspection. He concluded that the pool is detrimental to his property value in its current location.

Aleida Alboucrek, resident, also did not feel the special conditions or hardships required of a variance exist for the subject property. She asserted that any hardship was self-created and reflected disregard of zoning regulations, as the owner continued to build the pool after being cited. She concluded that the property detracts from the surrounding neighborhood.

Jerome Teppis, attorney, also felt the subject property did not meet the criteria necessary for a variance. He pointed out that while there are other properties in the neighborhood that may have pool issues, they are not 10 ft. short of the Code requirements. He added that the property owner proceeded with building the pool after being directed to stop construction.

Beverly Kennedy, resident, stated that the Terra Mar neighborhood is unhappy with the current state of the subject property. She asserted that the Commission has outsourced the responsibility for guarding the neighborhood's properties, residents, and visitors. She concluded that she was disappointed that the Commission may approve the variance.

Mayor Sasser requested clarification of whether or not the Applicant was asked to stop work on the pool and whether or not he did so. Jack Morrell, Building Official, replied that the required deck inspection in January 2016 was failed, as the Town required a survey done to verify whether or not the pool was in the correct space. It was confirmed that the survey requirement should have stopped work on the property until all issues were resolved; however, work was completed on the pool despite the failed inspection.

Commissioner Sokolow observed that the inspection record does not support the assertion that the Applicant continued work on the pool after failing an inspection. He noted that inspections were carried out over a period of months with no notice of a stop work order. Mr. Morrell advised that when a notice of correction is issued, work permits go into suspension. Development Services Director Connors advised that after the deck inspection was failed, there should have been no further inspections, with the exception of an approved child safety barrier.

Commissioner Vincent pointed out that a stop work order was not issued on the property. He added that the Applicant was directed to place the pool in its current location through

information supplied by Town Staff, which was later found to be in error. He felt there was a great deal of ambiguity regarding the placement of the pool.

Commissioner Vincent asked if Mr. Morrell was comfortable with the present condition of the pool's construction, with the exception of its location. Mr. Morrell confirmed that there were no issues with the integrity of the structure. Final plumbing, deck, and fencing inspections must be verified if the variance is approved.

Commissioner Oldaker asked if the homeowner could have requested the same variance before commencing work on the pool. Development Services Director confirmed that this could have been done, as the Applicant would still have met the necessary criteria.

Mr. Bachar stated that he did not do any work on the structure that was not permitted, and that the inspections referred to by Mr. Morrell were required only before the pool could be filled with water.

James Lowe, resident, declared that the first inspection required for a pool is the setback inspection; if this inspection is not passed, work should not continue. He felt the additional inspections conducted by the building official were confusing to the Applicant. He reiterated that the location of the pool had a negative effect on his and other property values in the neighborhood.

Mr. Morrell stated that the house on the subject property is built within the necessary setbacks. There is a 15 ft. rear setback separating the property behind the house. Commissioner Vincent pointed out that pool equipment would be within the same location even if the pool were constructed within the required setback.

Adriane Lowe, resident, stated that the property's fence obscures the house from view, which is inconsistent with other properties in the neighborhood. She added that the house is a weekly rental property and also inappropriate for the neighborhood.

Jerome Teppis, attorney, advised that the fact that similar properties exist on the south side of the Town was not sufficient reason to support a variance, nor did he believe the homeowner's desire for a pool was enough reason to allow the variance.

Mr. Bachar asserted that he has never rented the property on a weekly basis and has only rented the property on a long-term basis, nor has his property been cited for rental violations. He added that this should not be relevant to the decision regarding the variance.


With no other individuals wishing to speak on this Item, Mayor Sasser closed public comment.

**Commissioner Sokolow made a motion, seconded by Commissioner Vincent, to approve. Motion carried 4-1 (Mayor Sasser dissenting).**

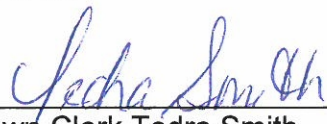
Lauderdale-By-The-Sea  
Regular Town Commission Meeting  
May 24, 2016

**18. ADJOURNMENT**

With no further business to come before the Commission at this time, the meeting was adjourned at 10:36 p.m.

  
\_\_\_\_\_  
Mayor Scot Sasser

ATTEST:

  
\_\_\_\_\_  
Town Clerk Tedra Smith

6-15-16  
Date